



(Dkt. No. 937.<sup>1</sup>) SCBI also avers that Standard Chartered PLC acquired American Express Bank Ltd. (“AEBL”) from the American Express Company in or around February 2008. SCBI avers that AEBL was renamed Standard Chartered International (USA) Ltd. and that American Express Bank International (“AEBI”) was renamed SCBI.

2. SCBI denies the allegations of paragraph 2, except admits that plaintiff purports to describe events occurring in December 2008 regarding the fraud perpetrated by Bernard L. Madoff and BLMIS.

3. SCBI denies the allegations of paragraph 3.

4. SCBI denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 and therefore denies them.

5. SCBI denies the allegations of paragraph 5.

6. SCBI denies the allegations of paragraph 6.

7. SCBI denies the allegations of paragraph 7, except admits that plaintiff was charged standard fees.

8. SCBI denies the allegations of paragraph 8.

### **Parties, Jurisdiction and Venue**

9. SCBI denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, except admits that plaintiff is organized and exists under the laws of the British Virgin Islands.

10. SCBI denies the allegations of paragraph 10, except admits that it is a corporation authorized to do business in Florida, with a place of business at 1111 Brickell Avenue, Miami, Florida 33131.

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<sup>1</sup> All citations to docket entries refer to the master docket, No. 09-118, unless otherwise noted.

11. SCBI admits: (i) Standard Chartered PLC is the direct parent of Standard Chartered Holdings Limited; (ii) Standard Chartered Holdings Limited is the direct parent of Standard Chartered Bank; and (iii) Standard Chartered Bank is the direct parent of SCBI.

12. SCBI admits the allegations of paragraph 12.

13. SCBI denies the allegations of paragraph 13, except admits: (i) plaintiff purports to base venue for this action on 28 U.S.C. § 1391; and (ii) SCBI conducts business within the Southern District of Florida.

14. SCBI denies the allegations of paragraph 14, except admits that it conducts business within the Southern District of Florida.

#### **Factual Allegations**

15. SCBI admits: (i) plaintiff was a client of Schroder & Co. Trust Bank (“Schroder”); and (ii) in or around 1998, Tirso Morales was an account manager at Schroder.

16. SCBI denies the allegations of paragraph 16.

17. SCBI admits: (i) the private banking division of Schroder was sold to AEBL; and (ii) Tirso Morales was a relationship manager at AEBL.

18. SCBI denies the allegations of paragraph 18, except admits: (i) Standard Chartered PLC acquired AEBL from the American Express Company in or around February 2008; and (ii) Tirso Morales was a relationship manager at SCBI.

19. SCBI denies the allegations of paragraph 19, except admits that plaintiff held accounts at Schroder, AEBL and SCBI.

20. SCBI denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 and therefore denies them, except admits that Tirso Morales met with representatives of plaintiff.

21. SCBI denies the allegations of paragraph 21.

22. SCBI denies the allegations of paragraph 22.
23. SCBI denies the allegations of paragraph 23.
24. SCBI denies the allegations of paragraph 24, except admits that Sentry was generally regarded as a safe investment.
25. SCBI denies the allegations of paragraph 25, except admits that AEBI conducted due diligence on Sentry.
26. SCBI denies the allegations of paragraph 26, except admits that Sentry was generally regarded as a safe investment.
27. SCBI denies the allegations of paragraph 27.
28. SCBI denies the allegations of paragraph 28, except admits that Sentry invested substantially all of its assets with BLMIS.
29. SCBI denies the allegations of paragraph 29.
30. SCBI denies the allegations of paragraph 30, except admits that in or around February 2008, plaintiff purchased approximately 99.96 shares of Sentry for approximately \$130,000.
31. SCBI denies the allegations of paragraph 31.
32. SCBI denies the allegations of paragraph 32.
33. SCBI denies the allegations of paragraph 33.
34. SCBI denies the allegations of paragraph 34.
35. SCBI denies information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 35 and therefore denies them.
36. SCBI denies the allegations of paragraph 36.

37. SCBI denies the allegations of paragraph 37, except admits that plaintiff invested in Sentry.

38. SCBI denies the allegations of paragraph 38.

39. SCBI denies the allegations of paragraph 39, except admits that plaintiff held investments in Sentry in or around December 2008.

40. SCBI denies the allegations of paragraph 40.

41. The allegations of paragraph 41 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 41.

42. The allegations of paragraph 42 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 42.

43. The allegations of paragraph 43 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 43.

44. SCBI denies the allegations of paragraph 44.

45. SCBI denies the allegations of paragraph 45, except admits that plaintiff purports to describe certain information reflected on a website entitled "STEP Wealth Directory." SCBI respectfully refers the Court to the unnamed portions of this website for a complete and accurate description of their contents.

46. SCBI denies the allegations of paragraph 46, including paragraphs 46(a)-(e), except admits that plaintiff purports to describe certain information reflected on Standard

Chartered Bank's website. SCBI respectfully refers the Court to the unnamed portions of this website for a complete and accurate description of their contents.

47. SCBI denies the allegations of paragraph 47, except admits that plaintiff purports to describe certain information reflected on Standard Chartered Bank's website. SCBI respectfully refers the Court to the unnamed portions of this website for a complete and accurate description of their contents.

48. SCBI denies the allegations of paragraph 48, except admits that plaintiff purports to describe certain information reflected on Standard Chartered Bank's website under a heading entitled "Responsible Selling and Marketing." SCBI respectfully refers the Court to this website for a complete and accurate description of its contents.

49. SCBI denies the allegations of paragraph 49.

50. SCBI denies the allegations of paragraph 50.

51. SCBI denies the allegations of paragraph 51.

52. SCBI denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52, and therefore denies them, except admits that Sentry placed substantially all of its assets in BLMIS.

53. SCBI denies the allegations of paragraph 53.

54. SCBI denies the allegations of paragraph 54.

55. SCBI denies the allegations of paragraph 55.

56. The allegations of paragraph 56 contain an opinion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 56.

57. The allegations of paragraph 57 contain an opinion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 57.

58. The allegations of paragraph 58 contain an opinion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 58.

59. SCBI denies the allegations of paragraph 59.

60. SCBI denies the allegations of paragraph 60.

61. SCBI denies the allegations of paragraph 61.

62. SCBI denies the allegations of paragraph 62.

**AS AND FOR A FIRST CLAIM**  
**(Breach of Fiduciary Duty)**

SCBI repeats and realleges its responses to paragraphs 1 through 62 as if fully set forth herein.

63. SCBI denies the allegations of paragraph 63.

64. SCBI denies the allegations of paragraph 64.

65. The allegations of paragraph 65 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 65.

66. SCBI denies the allegations of paragraph 66.

67. SCBI denies the allegations of paragraph 67.

68. SCBI denies the allegations of paragraph 68.

69. The allegations of paragraph 69, including paragraphs 69(a)-(i), contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 69, including paragraphs 69(a)-(i).

70. The allegations of paragraph 70 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 70, including by denying that plaintiff suffered any damages as a result of conduct by SCBI.

**AS AND FOR A SECOND CLAIM**  
**(Fraudulent Concealment)**

SCBI repeats and realleges its responses to paragraphs 1 through 70 as if fully set forth herein.

71. The allegations of paragraph 71 contain a legal conclusion and relate to plaintiff's claim for fraudulent concealment, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 71.

72. The allegations of paragraph 72, including paragraphs 72(a)-(d), contain a legal conclusion and relate to plaintiff's claim for fraudulent concealment, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 72, including paragraphs 72(a)-(d).

73. The allegations of paragraph 73 contain a legal conclusion and relate to plaintiff's claim for fraudulent concealment, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 73.



74. The allegations of paragraph 74 contain a legal conclusion and relate to plaintiff's claim for fraudulent concealment, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 74.

75. The allegations of paragraph 75 contain a legal conclusion and relate to plaintiff's claim for fraudulent concealment, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 75, including by denying that plaintiff suffered damages as a result of conduct by SCBI.

**AS AND FOR A THIRD CLAIM**  
**(Negligence)**

SCBI repeats and realleges its responses to paragraphs 1 through 75 as if fully set forth herein.

76. The allegations of paragraph 76 contain a legal conclusion and relate to plaintiff's negligence claim, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 76.

77. The allegations of paragraph 77, including paragraphs 77(a)-(h), contain a legal conclusion and relate to plaintiff's negligence claim, which the Court dismissed on September 12, 2012; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 77, including paragraphs 77(a)-(h).

78. The allegations of paragraph 78 contain a legal conclusion and relate to plaintiff's negligence claim, which the Court dismissed on September 12, 2012; therefore, no response is

required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 78, including by denying that plaintiff suffered any damages as a result of conduct by SCBI.

**Denial of Prayer for Relief**

SCBI denies that plaintiff is entitled to any of the relief prayed for on pages 14-17 of the Complaint.

**Jury Trial Demand**

Plaintiff's demand for a trial by jury is subject to its account agreement(s) with SCBI.

**II. DEFENSES**

**First Defense**

Plaintiff fails to state a claim upon which relief can be granted.

**Second Defense**

Any damages allegedly suffered by plaintiff were caused by the intervening act(s) or omission(s) of persons or entities other than SCBI, and said act(s) or omission(s) superseded any act or omission by SCBI for which it might be considered liable.

**Third Defense**

Plaintiff's claims are barred, in whole or in part, because SCBI's alleged conduct was not the cause of plaintiff's injuries.

**Fourth Defense**

The claims asserted in the Complaint are barred by the equitable doctrines of laches, waiver, estoppel, unclean hands, and other equitable defenses that may appear upon further discovery and investigation.

**Fifth Defense**

SCBI has not engaged in any conduct that would entitle plaintiff to an award of punitive damages.

**Sixth Defense**

Plaintiff's claims are barred, in whole or in part, because plaintiff knowingly and voluntarily assumed the risks inherent in the investments at issue.

**Seventh Defense**

Plaintiff was contributorily and/or comparatively negligent.

**Eighth Defense**

Plaintiff's claims are barred, in whole or in part, by the economic loss doctrine.

**Ninth Defense**

Plaintiff's claims are barred, in whole or in part, because they are preempted by the Securities Litigation Uniform Standards Act, 15 U.S.C. § 78bb(f)(1).

**Tenth Defense**

Plaintiff did not justifiably or reasonably rely on any alleged representations, acts or omissions by SCBI.

**Eleventh Defense**

Plaintiff's claims are barred, in whole or in part, because SCBI, or any person or entity acting or purporting to act on SCBI's behalf, acted in good faith and with due care and diligence.

**Twelfth Defense**

Plaintiff's claims are barred, in whole or in part, by virtue of its account agreement(s) with SCBI.

### **Thirteenth Defense**

Plaintiffs' claims are barred, in whole or in part, by virtue of disclosures in the subscription agreement(s) and the private placement memorandum applicable to plaintiff's purchase(s) of shares of Sentry.

### **Fourteenth Defense**

SCBI was entitled to and did, reasonably and in good faith, rely on the acts and representations of other third parties with respect to the transactions and events that are the subject of plaintiff's claims.

### **Fifteenth Defense**

Any damages recoverable by plaintiff from SCBI are limited to the percentage of fault attributable to SCBI, and thus would not include the percentage of fault attributable to at-fault third parties, including but not limited to the defendants named in the Second Consolidated Amended Complaint in *Anwar v. Fairfield Greenwich Limited*, No. 09-CV-0118.

### **Sixteenth Defense**

Any recovery by plaintiff against SCBI is to be offset, in whole or in part, by any and all other recoveries (including, where applicable, redemptions) by plaintiff with respect to its investments in Sentry.

### **Seventeenth Defense**

SCBI is entitled to recover indemnity and/or contribution from others for any liability they incur to plaintiff.

### **Eighteenth Defense**

Any recovery by plaintiff against SCBI is to be offset by any and all debts, liabilities or obligations owed by plaintiff to SCBI.

WHEREFORE, SCBI respectfully demands judgment dismissing this action with prejudice together with its costs and disbursements.

Respectfully submitted,

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